



# *CITY COUNCIL*

## *Public Safety Committee*

**Monday, July 7, 2008**

**Agenda**

**5:00 p.m.**

**Committee Members: D. Sterner (Chair), S. Marmarou, M. Goodman-Hinnershitz**

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### **COMMITTEE OF THE WHOLE**

**5:00 pm**

- 1. 2007 External Audit – L. Himebach - Herbein & Co.**
- 2. Pagoda Foundation – R. Hottenstein**
- 3. Debt Restructuring**
- 4. Update on Riverview – R. Hottenstein**
- 5. Rezoning of Preservation Zone at Fritzes Island to allow municipal uses**

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|---|----------------|
| <b>I. Update – Housing Permit Application Process</b>   | <b>6:15 pm</b> |
| <b>II. Landlord Education and Lease Agreements</b>  | <b>6:30 pm</b> |
| <b>III. Review Student Housing Zoning Ordinance Amendment</b>                                     | <b>6:50 pm</b> |
| <b>IV. Disruptive Tenant Ordinance Amendment</b><br>Comparison of Kutztown and Reading Ordinances | <b>7:10 pm</b> |
| <b>V. Mobile Food Vendor Ordinance Amendment</b>  | <b>7:30 pm</b> |

**VI. Review Reports:**

- Codes Enforcement
- Crime Stats (Police)
- Fire Report

*It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.*

DRAFT

BILL NO. \_\_\_\_\_-2008

AN ORDINANCE

AN ORDINANCE AMENDING THE CITY OF READING ZONING ORDINANCE PER EXHIBIT "A," TO CREATE, ADD AND DEFINE THE USE OF STUDENT HOME AS A SPECIAL EXCEPTION AND REQUIREMENTS THEREFOR IN THE R-1A (RESIDENTIAL), R-1 (RESIDENTIAL) AND IN NON MULTI-FAMILY DWELLING UNITS IN R-2 (RESIDENTIAL) AND AS A PERMITTED USE IN R-2 (RESIDENTIAL) MULTI-UNIT DWELLING CITY OF READING ZONING DISTRICTS

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The Zoning Ordinance of the City of Reading is amended per attached Exhibit "A," to create, add and define the use of Student Housing as a special exception and providing requirements therefor in the R-1A (RESIDENTIAL), R-1 (RESIDENTIAL) and in Non Multi-Family Dwelling Units in R-2 (Residential) and as a Permitted Use In R-2 (Residential) Multi-Unit Dwelling City of Reading Zoning Districts.

SECTION 2. All property owners desiring to register their properties in R-1A (RESIDENTIAL), R-1 (RESIDENTIAL), R-2 (Residential) City of Reading Zoning Districts as non-conforming of this Ordinance shall do so no later than sixty (60) days from adoption hereof. Said registration shall also require any property owner wishing to permit more than three (3) unrelated students to continue to reside in their properties. To obtain non-conforming status, however, under this provision (more than 3 unrelated) must be capable of proving such use was a legal rental unit that existed prior to the City's adoption of Ordinance 69-2005.

SECTION 3. All other provisions of the City of Reading Zoning Ordinance, Section 27-101 et seq. of the City of Reading Codified Ordinances shall remain unchanged and in full force and effect.

SECTION 4. Effectiveness of Ordinance. This Ordinance will become effective in accordance with Charter Section 219.

Enacted \_\_\_\_\_, 2008

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
City Clerk

(LAW DEPT.)

## EXHIBIT A

**The City of Reading Zoning Ordinance**, Section 27-101 et seq. of the City of Reading Codified Ordinances is hereby amended and added to as follows:

### PART 22

#### DEFINITIONS/SPECIFIC WORDS AND PHRASES DEFINED

**§27-2202. General Definitions** is hereby amended to amend or add the following words, terms and definitions:

**FAMILY** - one or more persons related by blood, marriage, adoption or foster relationship *or are the great-grandparent, great-grandchild, grandparent, grandchild, parent, child, brother, sister, aunt, uncle, niece, nephew, great uncle, great aunt, great nephew, great niece, or cousin less than to the second degree*, living together as a single housekeeping unit; or a group of not more than three unrelated persons over the age of 14 years, who are living together in a single dwelling unit and maintaining a common household with a single cooking facility. A roomer, boarder or lodger shall not be considered a member of the family. Shared housing arrangements, where the individuals are permanent or temporary "roommates," do not constitute family arrangements. The term "family" shall also not include the occupants of a clubhouse, hotel, motel, *student home or student housing, fraternity house, sorority house or dormitory.*

**ROOMMATE HOUSEHOLDS** - a shared housing arrangement where at least two, and no more than three persons not related by blood, marriage, adoption or foster relationship *or are not the great-grandparent, great-grandchild, grandparent, grandchild, parent, child, brother, sister, aunt, uncle, niece, nephew, great uncle, great aunt, great nephew, great niece, or cousin more than to the second degree* of each other live together in a single dwelling unit and/or a single housekeeping unit on a permanent or temporary arrangement. Any exception to this definition in number of persons in the occupancy arrangement requires approval as a special exception review by the Zoning Hearing Board. *Said definition or arrangement shall not include a such that fall within the definition of Student Home.*

**STUDENT** - An individual who is enrolled or has made application and been accepted at a university, college or trade school and whose primary occupation is as a student or who is on a semester or summer break from studies at a college, university or trade school or any combination of such persons. The term "student" shall apply to both undergraduate and graduate students alike. The residents of a student home share

living expenses and may live and cook as a single housekeeping unit but may also only share access to cooking facilities and not live and cook as a single housekeeping unit.

**STUDENT HOME** – A living arrangement for at least two (2) students to a maximum of three students (3) (as defined in this chapter) unrelated by blood, marriage or legal adoption. The term Student Home shall not include dormitories, fraternity house or sorority house. The term Student Home shall be used interchangeable with the term Student Housing.

**STUDENT HOUSING** - See Student Home.

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## PART 8

### DISTRICTS

## PART 8

### DISTRICTS

§27-801 R-1A is hereby amended to add Student Home as a special exception use as follows:

SPECIAL EXCEPTION USES:

All uses listed below shall be pursuant to §27-1202 of this Chapter

[illegible]

## PART 8

### DISTRICTS

§27-802 R-1 is hereby amended to add Student Home as a special exception use as follows:

SPECIAL EXCEPTION USES:

All uses listed below shall be pursuant to §27-1202 of this Chapter

[illegible]

## PART 8

### DISTRICTS

§27-803 R-2 is hereby amended to add Student Home as follows:

PERMITTED USES:

A student home is as added as a permitted, provided that such use is located in a multifamily dwelling unit.

SPECIAL EXCEPTION USES:

A student home is added as special exception use, in a dwelling unit other than a multifamily dwelling.

All uses listed below shall be pursuant to §27-1202 of this Chapter

[illegible]



**PART 12**  
**PROVISIONS FOR SPECIAL EXCEPTION AND CONDITIONAL USES**

**§27-1202. Conditions for Special Exception Uses** is hereby amended to add Student Home as a special exception in the R-1A, R-1 and R-2 (other than multi-family dwelling unit) City of Reading Zoning Districts:

27-1202(18) Student Home as defined herein shall be permitted in the City of Reading Zoning Districts R-1A and R-1 and R-2 in structures other than multi-family dwelling units provided that the following standards are met, all requirements therefor under this Ordinance, along with any other stipulations set forth by the Zoning Hearing Board:

A. A site plan and architectural plans, drawn to scale. These plans must show the location and dimensions of off-street parking, private entrances, walkways, the dimensions and square footage of each room and storage space and shall indicate the intended use of each room.

B. The roommate housing arrangement must meet the standards of the City of Reading building, housing and fire codes as required for residential rental properties. The owner must verify to the City of Reading on an annual basis that the building meets all of the plumbing, electrical, heating, building, fire, and similar standards set by the City and by the Commonwealth of Pennsylvania.

C. No cooking facilities of any kind shall be located in any room except the central kitchen.

D. Every bedroom shall be at least 70 square feet of floor area and there shall be no more than two occupants per bedroom.

E. No basement or cellar shall be used as a habitable bedroom except by special approval and variance.

F. No roommate housing arrangement shall be located within 500 linear feet of any other lot on which is established a Student Home, except by variance, measured by the shortest distance between the two lots where the proposed student home is located (including but not limited to each existing student home use located in any district which is of a different designation than the district in which the new student home use is proposed).

G. The single-family dwelling has a floor area of at least 1,000 square feet exclusive of basements, garages and accessory buildings.

H. A student home shall not be located within 500 feet of a group home, group quarters institution, church, educational use, housing for the elderly or home for handicapped individuals. The distance between the two uses shall be measured by the shortest distance between the lot on which the proposed student home will be located and the lot or lots which contain the existing uses.

I. A student home shall meet the area and bulk requirements for a single-family dwelling in the applicable zoning district where such use is proposed.

J. The owner of the student home, or the agent or manager of the student home, shall annually register the student home with the Codes Enforcement Division on a form provided by the City of Reading. If the owner of the student home fails to maintain a current registration of his or her student home, the Zoning Officer shall enforce such condition in accordance with **§27-201 et seq** of this chapter.

K. If the single-family dwelling where the student home is proposed cannot meet the parking requirements set forth in **§ 27-1603DD** herein, the Zoning Hearing Board may still authorize the special exception with the condition that the number of occupants which may reside at the student home shall be limited to the number of off-street parking spaces provided at the single-family dwelling.

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**PART 16**

**OFF-STREET PARKING AND LOADING**

**§27-1603. Off-Street Parking Standards** is hereby amended to add the following:

DD: Student Home –

R-1A and R-1: one space per every occupant which would be permitted to reside in the dwelling up to a maximum of three (3), plus one additional, subject to the provisions of § 27-1202(18).

R-2: other than multi-family dwelling unit - one space per every occupant which would be permitted to reside in the dwelling up to a maximum of three (3), plus one additional, subject to the provisions of § 27-1202(18).

R-2: multi-family dwelling unit – one space every occupant which would be permitted to reside in the dwelling



CITY OF READING,  
PENNSYLVANIA

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## MEMORANDUM

**TO:** Members of Council  
**FROM:** Linda A. Kelleher, City Clerk  
**DATE:** June 3, 2008  
**SUBJECT:** Amendment to Disruptive Tenant Ordinance

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Since January the Public Safety Committee has been discussing changes for the Disruptive Tenant portion of the Housing Permit Ordinance and reviewing the legislation used in Kutztown.

A complete summary of the Kutztown Ordinance is attached. The main components are:

- The Kutztown provides for a Level 1 (written form from Codes or Police when no additional citation or legal action occurs) and
- Level 2 DCR (written form from Codes/Police along with a citation or other legal action) for actions that do not comply with the ordinance.
- Level 2 DCR's must be "closed" within 10 days of issuance.
- To close the DCR the owner/agent must have a corrective (remedial) plan approved by the Codes Officer or through appeal the Appeals Board.
- If a corrective plan is not approved, the housing permit can be revoked, which will create the need for the owner to evict the tenants.
- If there are open Level 2 DCRs over a 2 year period, Kutztown has opportunity to refuse renewal of the permit.

A comparison of the Reading and Kutztown DCR follows.



	<b>Kutztown</b>	<b>Reading</b>
Agent requirement	Requires designation of an agent if owner is not resident and lives over 5 mi away	Requires designation of agent if owner lives outside Berks
Owner responsibilities	Requires owner to assure that the conduct of the tenants complies w/ the terms of the Chapter and requires the owner to take contractual and enforcement actions to create compliance. Owner also required to have tenants sign and submit a letter acknowledging that they read this Chapter. The copy of the letter must be delivered to Codes.	Requires owner to use policies to manage the property under the terms of the ordinance
DCR application	<ul style="list-style-type: none"> <li>- Level 1 DCR – violation without citation – notice mailed to owner by Codes, requires owner to notify tenant and copy Codes w/in 10 days. Failure to comply constitutes grounds for Level 2 DCR</li> <li>-Level 2 DCR – violation and citation issued by Codes or Police, permit can be revoked or suspended.</li> <li>- allows owner 20 days to file remedial plan to correct violation</li> <li>- Codes has 10 days to approve or reject the plan</li> </ul> <p>If appealed, Board can uphold the revocation or suspension and define the period suspension period</p>	<ul style="list-style-type: none"> <li>- After 2 DCRs in a calendar year, the owner is required to begin eviction proceedings within 10 days. Failure to do so will start the process to suspend the rental permit.</li> <li>- Process begins after notice and end of the 10 day appeal period.</li> <li>- Rental permit shall not be renewed for 6 month period following the 1<sup>st</sup> revocation and 12 months for each subsequent revocation or suspension within a 5 year period.</li> <li>- Allows owner to reapply for permit after tenants are evicted.</li> </ul>
Revocation-suspension of the rental permit	<p>The Codes may revoke only until the matter can be scheduled for the next possible Housing License Appeals Board meeting, at which time the Appeals Board shall consider the revocation and set the period of time for its duration, if it is to be continued. Upon the loss of the privilege to let, the owner or agent shall take immediate steps to evict the occupants of the regulated unit in question.</p> <p>Renewal - Permit can be denied/revoked if the owner fails to close a DCR by the end of the license year in which the DCR was issued, including, but not limited to, failure to respond to notice of a DCR or failure to perform an approved remedial</p>	<p>A Rental Permit shall be suspended or revoked at the discretion of the Manager of the Codes Enforcement Division or his/her designee if egregious, severe, life-threatening, health and welfare or repetitive, continued violations of the Offense set forth in subsection 11-120(F)(<i>Failure To Comply with Application Chapter or Failure To Pass Inspection</i>) exist at the dwelling unit or rooming unit without any attempt to cure or remedy the problem or submission of a timely rehab plan and lack of response to Notices of Violations issued by the</p>



the letting of certain dwelling units in the Borough of Kutztown. It is also the policy of the Borough of Kutztown that owner and occupants share responsibility for obeying applicable laws adopted to protect and promote public health, safety and welfare, including, but not limited to, fire prevention and property maintenance codes. As a means to those ends, this chapter provides for a system of inspections and issuance and renewal of housing licenses, and sets penalties for violations. A substantial portion of the dwellings in the Borough of Kutztown are rental units and a large portion of the dwellings which are not owner-occupied are let to students attending Kutztown University. This chapter shall be liberally construed and applied to promote its purposes and policies.

- B. History. This chapter is an amendment and partial reenactment of the previous Chapter 135, entitled "Housing Standards," of the Code of the Borough of Kutztown, which codified the enactment originally adopted as ordinance No. 15-1969 on November 11, 1969, as amended in its entirety by Ordinance No. 7-1988, and by subsequent amendments.
- C. Short title. This chapter shall be cited as the "Housing Standards" of the Borough of Kutztown.
- D. Authority. This chapter is enacted in accordance with the authority contained in the laws of the Commonwealth of Pennsylvania, including, but not limited to, Borough Code Sections 1202(6), 1202(21), 1202 (24) and 1202(74). **Editor's Note: See 53 P.S. § 46202, Subsections (6), (21), (24) and (74).**

#### **§ 135-2. Definitions and word usage.**

- A. The following definitions shall apply in the interpretation and enforcement of this chapter:

AGENT — A person representing and acting on behalf of an owner.

APARTMENT — A dwelling unit occupied by one family and containing at least one bathroom and separate eating and cooking facilities with bath.

BOARDINGHOUSE — A one-family dwelling occupied by the owner thereof (and his family, if applicable), portions of which building the owner lets rooms for lodging.

CLOSED DCR — A closed DCR shall be a DCR as to which the owner or agent:

- (1) With respect to a Level 1 DCR, responds by complying with the procedures set forth in § 135-6E(3) of this chapter within 10 business days of receipt of a written notice of a Level 1 DCR.
- (2) With respect to a Level 2 DCR, responds by complying with the procedures set forth in § 135-6E(4) of this chapter within 20 business days of receipt of a written notice of a Level 2 DCR, and the Code Enforcement Officer has made a determination that the remedial plan proposed by the owner or agent pursuant to § 135-6E(4) has been performed by the owner or agent in all material respects. The owner or agent may request the Code Enforcement Officer to make such determination at the time of approval of the remedial plan or at any time thereafter. An owner or agent shall not be deemed to have failed to substantially perform a remedial plan as a result of the refusal of any judicial authority to order the eviction of any occupant, so long as the owner or agent has diligently pursued any eviction proposed in the owner or agent's remedial plan by appropriate legal proceedings to the Court of Common Pleas.

CODE ENFORCEMENT OFFICER — Any person specifically designated as such by the

Council of the Borough of Kutztown to enforce this chapter, and shall include the duly authorized representatives of said Code Enforcement Officer.

**COMMON AREA** — Any open area within a structure shared by occupants or that the occupants have the right to share, including, but not limited to, kitchens, bathrooms, living rooms, dining rooms, attics, basements and any room used for parties, social events or the congregation of people, excepting bedrooms.

**DISRUPTIVE CONDUCT** — Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a regulated unit that is so loud, untimely (as to hour of the day), offensive, riotous or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises such that a report is made to police and/or to the Code Enforcement Officer complaining of such conduct, action, incident or behavior. It is not necessary that such conduct, action, incident or behavior constitutes a criminal offense, nor that criminal charges be filed against any person in order for a person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein; provided, however, that no disruptive conduct shall be deemed to have occurred unless the Code Enforcement Officer or police shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrence.

**DISRUPTIVE CONDUCT REPORT OR DCR** — A Level 1 DCR and/or a Level 2 DCR, as the context may require.

**DISRUPTIVE CONDUCT REPORT LEVEL 1 OR LEVEL 1 DCR** — A written report of disruptive conduct on a form to be prescribed therefor, in accordance with § 135-5 of this chapter, to be completed by the Code Enforcement Officer or police officer, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer. Disruptive conduct reports shall be separate from any other action taken by the police and shall be considered public documents. A DCR shall be deemed a Level 1 DCR when no criminal citation or prosecution is issued in response to the disruptive conduct and other legal action in the judicial system is not pursued by the Borough Police Department or Code Enforcement Officer.

**DISRUPTIVE CONDUCT REPORT LEVEL 2 OR LEVEL 2 DCR** — A written report of disruptive conduct on a form to be prescribed therefor, in accordance with § 135-5 of this chapter, to be completed by the police officer who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer. A DCR shall be deemed a Level 2 DCR when the disruptive conduct results in the issuance of an actual criminal citation, a criminal offense is actually charged or other legal action is pursued in the judicial system by the police or Code Enforcement Officer. A Level 2 DCR may also be issued by the Code Enforcement Officer as provided in §§ 135-7C and 135-6E(3) of this chapter. Level 2 DCR's shall be those DCR's in which owner and occupants shall accrue penalties, if applicable, under this chapter.

**DWELLING** — Any building or structure (except temporary housing) which is wholly or partly used or intended to be used for living or sleeping by human occupants.

**DWELLING UNIT** — Any group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping.

**FAMILY** — As used in this chapter, the term "family" shall be defined as:



- (1) One or more persons related by blood, marriage, adoption or other decree of legal custody living together as a single housekeeping unit and using cooking facilities and certain rooms in common;
- (2) Not more than three persons unrelated, as set forth in Subsection (1) above, living together as a single housekeeping unit and using cooking facilities and certain rooms in common; provided, however, that no related dependent of such unrelated persons shall be counted in determining the number of unrelated persons living together; or
- (3) More than three unrelated handicapped persons living permanently together as a single housekeeping unit and using cooking facilities and certain rooms in common; provided, however, that such persons shall be under the supervision of a nonhandicapped resident of the dwelling and provided, further, that the dwelling is owned and operated by a Pennsylvania nonprofit corporation.

**FORMAL WARNING** — The warning described in § 135-10C(1) of this chapter.

**GUEST** — A person on the premises with actual or implied consent of an occupant, who is not an occupant.

**HOUSING LICENSE** — The license issued to the owner or agent of regulated units under this chapter, which is required for the lawful letting and occupancy of regulated units.

**HOUSING LICENSE APPEALS BOARD** — The Housing License Appeals Board established pursuant to Article II of Chapter 12 of the Code of the Borough of Kutztown.

**LET, LETTING, LEASE, RENT, RENTING, RENTAL OR WORDS OF SIMILAR MEANING** — The act of permitting a unit to be used to provide a living arrangement for one or more persons not the owner thereof or the owner's family, whether or not for compensation.

**LICENSE YEAR** — As used in this chapter, the term "license year" shall mean August 1 of any year through July 31 of the succeeding year.

**MULTIPLE DWELLING** — Any dwelling containing two or more dwelling units.

**NONRENEWAL** — The nonrenewal described in § 135-10C(2) of this chapter.

**OCCUPANT** — Any person over one year of age living, sleeping, cooking or eating in a unit.

**OPEN DCR** — A DCR which has been issued and has not become a closed DCR.

**OWNER** — Any person who, individually, jointly or severally with others, shall have legal or equitable title to or have any other legal or beneficial interest in any unit, whether or not such person occupies the unit or any part thereof.

**PERFORMANCE CODES** — All codes of the Borough of Kutztown, and specifically: Chapter 136 of the Code of the Borough of Kutztown, entitled "Property Maintenance," adopting the International Property Maintenance Code of 2003, as such chapter is amended from time to time; Chapter 225 of the Code of the Borough of Kutztown, entitled "Zoning," as such chapter is amended from time to time; Chapter 185 of the Code of the Borough of Kutztown, entitled "Solid Waste," and Chapter 119 of the Code of the Borough of Kutztown, entitled "Fire Prevention," as such chapters are amended from time to time.

**PERSON** — Includes any individual, firm, corporation, company, association, partnership, trust, agent or other entity. When referring to occupancy or maximum dwelling unit occupancy pursuant to this chapter, person shall refer only to an individual.

**POLICE** — The Police Department of the Borough of Kutztown, established pursuant to

Chapter 38 of the Code of the Borough of Kutztown, or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of Kutztown.

**PREMISES** — Any lot, tract or parcel of real property in the Borough of Kutztown, including the land and all buildings and appurtenant structures or appurtenant elements, on which one or more regulated units are located.

**REASONABLE NOTICE** — In the case of nonemergency notice, five business days' advance notice by United States first class mail. Reasonable notice in emergency situations shall be determined in accordance with § 135-9C of this chapter.

**REGULATED UNIT** — Any unit subject to regulation under this chapter.

**REMEDIAL PLAN** — The plan required to be filed by the owner or agent pursuant to § 135-6E(4) of this chapter.

**RENTED ROOM** — A room which is let and which is occupied by persons who share certain facilities in common with the owner and/or with other occupants of the dwelling, boardinghouse, rooming house or multiple dwelling in which the let housing is located.

**RESPONSIBLE PARTY** — Any parent of, legal guardian of or other adult legally responsible for any minor individual (under 18 years of age) who would be considered an occupant for purposes of this chapter. All minor occupants shall provide the name of the responsible party to the owner or agent of the regulated unit at the time of the entry into a particular lease or rental agreement, and the owner or agent shall provide this information to the Borough.

**REVOCATION** — The revocation described in § 135-10C(4) of this chapter.

**ROOMING HOUSE** — A building, other than a fraternity house, sorority house, hotel or a motel, in which building the owner provides rooms for lodging of individuals.

**ROOMING UNIT** — Any room or group of rooms located within a rooming house forming a single habitable unit used or intended to be used for living or sleeping purposes.

**SUSPENSION** — The suspension described in § 135-10C(3) of this chapter.

**UNIT** — Any apartment, rented room, rooming unit, boardinghouse, rooming house, multiple dwelling or other dwelling unit or dwelling, or any room or portion thereof that is offered for let.

**B. Word usage.**

- (1) Whenever the words "dwelling," "dwelling unit," "multiple dwelling," "boardinghouse," "rented room," "rooming house," "rooming unit," "apartment," "regulated unit," "unit," and "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."
- (2) Tense, gender and number. Words used in the present tense include the future; words used in the masculine gender include the feminine and the neuter; the singular number includes the plural, and the plural the singular.

**§ 135-3. Housing licenses.**

**A. Application.**

- (1) No person shall operate or let to another for occupancy any unit, unless such person shall first apply for and obtain annually a housing license issued by the Code

Enforcement Officer.

- (2) No housing license shall be issued or renewed unless such applicant designates in writing to the Code Enforcement Officer the name of said owner's agent for the receipt of service of notice of violation of the provisions of this chapter and for service of process pursuant to the provisions of this chapter and accurately and truthfully provides all of the information required by § 135-5 and Subsections A, B, C and D of § 135-6 of this chapter.
  - (3) This chapter shall not apply to a unit which is let during any license year for one or more periods of time, provided no such period exceeds 10 continuous days.
- B. Housing licenses shall be issued for the period of one license year. Upon expiration of any housing license, a new housing license shall be required for a further period of one license year.
- C. The Borough Code Enforcement Officer shall allow owner or agents who are required to obtain housing licenses under this chapter to obtain such new housing licenses for 1/2 of the fee for the prescribed housing license when the application is received by the Borough Code Enforcement Officer on or after February 1 of any year. Housing licenses for less than the full license year will not be issued at the beginning of a license year. All housing licenses shall have as their termination date the 31st day of July next occurring.
- D. Every housing license issued under this chapter shall be maintained in the regulated unit and shall be posted in a conspicuous location in the entryway of every licensed regulated unit in such a way so as to minimize tampering and removal and in such a way that it may be seen at all times.
- E. For the purpose of determining the number of units or rooms and the maximum number of occupants of a regulated unit to be included in a housing license, the following shall apply:
  - (1) Any apartment or room occupied as a dwelling unit by the owner of a boardinghouse shall be excluded from the total number of units or rooms.
  - (2) All buildings which are owned by the same person and which are under the same roof or connected by breezeways, passageways or similar connecting facilities or which are constructed upon contiguous sites and operated and managed as one complex of units may be combined to determine the total number of units or rooms.
- F. Each housing license issued shall set forth the maximum number of occupants permitted to occupy the regulated unit, determined by reference to and in accordance with the Performance Codes.
- G. Housing licenses shall not be transferable in the event of a change in ownership of the regulated unit.
- H. Housing permits or licenses previously issued and applications previously filed under the previous enactment of Chapter 135 of the Code of the Borough of Kutztown are not invalidated by the provisions of this chapter and shall be treated as if the same had been issued or filed under this chapter.
- I. No housing license shall be issued until the regulated unit and the premises upon which the regulated unit is located have been inspected by the Code Enforcement Officer and the regulated unit and the proposed use thereof have been found to be in compliance with the Performance Codes; provided, however, that no inspection shall be required prior to the issuance of a housing license, the application for which is made by the owner of the regulated

unit within 90 days after becoming the owner of the premises and so long as there is not outstanding in the records of the Code Enforcement Officer any unresolved violations or inspection requests pertaining to the regulated unit. If any deficiencies as set forth under Chapter 136 of the Code of the Borough of Kutztown, entitled "Property Maintenance," are detected during inspection, no housing license shall be issued until all such deficiencies are corrected, as confirmed by subsequent inspections by the Code Enforcement Officer.

#### **§ 135-4. Fees.**

- A. The Borough Council of the Borough of Kutztown may, by resolution, adopt from time to time fees and charges applicable to this chapter, for inclusion as part of Chapter A231 of the Code of the Borough of Kutztown. Such fees and charges may include, but are not limited to, the following:
- (1) The amount of the annual fee for a license year to be paid at the time of filing of an application for a housing license pursuant to § 135-3 of this chapter.
  - (2) Any owner or agent who fails to renew an expired housing license within 10 days after the expiration date of the housing license shall, in addition to the fines provided for in § 135-10A and B of this chapter, be subject to a fee of \$25 for each and every additional ten-day period or part thereof during which the expired housing license is not renewed and the regulated unit continues to be used for purposes subject to regulation under this chapter.
  - (3) Fees to be imposed for failure to permit an inspection at a time agreed upon in advance by the owner or agent and the Code Enforcement Officer and confirmed in writing by the Code Enforcement Officer.
  - (4) Such other fees and charges as are deemed to be necessary or appropriate.
- B. No fee shall be required in connection with the issuance of a housing license in the following circumstances:
- (1) When the owner or agent is the United States government, the Commonwealth of Pennsylvania, the Borough of Kutztown or any agency thereof.
  - (2) When the owner or agent is a nonindividual person organized and operated exclusively for religious, charitable and/or educational purposes, and provided further, that no part of the net earnings or profits of any such nonindividual person shall inure to the benefit of any officer, director, shareholder, partner, trustee, beneficiary or principal thereof or to any other person, other than solely for charitable purposes.
- C. The housing license fee exemptions contained in Subsection B above shall, nevertheless, not exempt such owner or agents from compliance with this chapter and the Performance Codes and all other applicable rules and regulations issued in connection with it, unless specifically otherwise exempted herein.

#### **§ 135-5. Adoption of rules and regulations.**

The Code Enforcement Officer shall administer and enforce the provisions of this chapter and may propose rules, regulations and forms necessary for its administration. Such rules, regulations and forms shall not be in conflict with this chapter or any other chapters and shall be submitted to the Council of the Borough of Kutztown for approval by resolution. If the rules, regulations and

forms so submitted to Council are approved by Council, the same shall be filed in the office of the Code Enforcement Officer of the Borough of Kutztown and in the office of the Secretary of the Borough of Kutztown. Such rules, regulations and forms as may be adopted shall then be deemed to be a part of this chapter and to have the same effect as this chapter. **Editor's Note:** Said forms, as adopted by Res. No. 20-2005, are on file in the Borough offices.

**§ 135-6. Responsibilities of owner and agents.**

- A. Whosoever, as owner or agent, lets or holds out to let any unit subject to the provisions of this chapter shall supply the Code Enforcement Officer with the following information:
  - (1) The street address and mailing address (if different from the street address) of each such unit.
  - (2) The number of units for let in any dwelling, rooming house or boardinghouse, which number shall in no event exceed the number of such units provided for on the housing license issued to the owner or agent on behalf of the owner.
  - (3) The name of each person occupying each such unit.
  - (4) The period of time for which the unit is let.
- B. Such information shall be supplied to the Code Enforcement Officer annually in writing, in such form as may be prescribed in accordance with § 135-5 of this chapter. Such information pertaining to any unit shall also be supplied in writing to the Code Enforcement Officer, in such form as may be prescribed in accordance with § 135-9 of this chapter, within 10 days after the occupancy of any such unit changes.
- C. The owner of any unit required to obtain a housing license pursuant to the requirements of this chapter shall designate a person to serve as the owner's agent. The owner or agent shall be legally responsible for operating each unit in compliance with all provisions of this chapter and the Performance Codes, the housing license issued relating to the maximum number of persons that may occupy such regulated unit and all other provisions of this chapter. The agent shall reside either within such premises where the regulated unit is located or within a five-mile radius thereof. The owner of the regulated unit may also serve as the agent if such owner resides within the premises where the regulated unit is located or within a five-mile radius of the territorial boundary of the Borough of Kutztown or if such owner resides more than five miles from the territorial boundary of the Borough of Kutztown but has a place of business within the Borough of Kutztown and is present at the place of business during normal business hours. For purposes of this section, "normal business hours" shall mean the period of time commencing at 9:00 a.m. and continuing through and including 5:00 p.m., prevailing time, Monday through Friday, except legal holidays, throughout the calendar year. In the absence of the owner, the agent shall be responsible for providing access to such regulated unit so as to permit the Code Enforcement Officer to make inspections thereof. The agent shall be an individual not less than 18 years of age. The name, address and phone numbers of the owner or agent shall be posted in a conspicuous place within the regulated unit.
- D. The owner of any regulated unit shall, within 10 days of becoming such owner and thereafter annually, furnish in writing the following information to the occupants and to the Code Enforcement Officer:
  - (1) The name, home and business addresses and home and business phone numbers of each owner.

- (2) The name, home and business addresses and home and business phone numbers of the agent.

E. Regulation of occupant conduct and activities.

- (1) The owner or agent of any regulated unit shall be responsible for assuring that the conduct and activities of the occupants of every regulated unit which the owner or agent owns in the Borough of Kutztown, which conduct or activity takes place at such regulated unit or its premises, is in compliance with this chapter. In order to achieve those ends, every owner or agent of a regulated unit shall take appropriate contractual and enforcement action to cause the conduct and activities of the occupants thereof to comply with this chapter.
- (2) Where an owner or agent does not manage the use of common areas of the premises and the behavior of occupants and guests in the common areas by appropriate contractual and enforcement action, the owner or agent shall be directly responsible for the behavior of occupants and guests in common areas of the premises as if the owner or agent were an occupant.
- (3) Within 10 business days after the receipt of written notice from the Code Enforcement Officer that a Level 1 DCR has been issued as a result of an occupant of a regulated unit having violated a provision of this chapter, the owner or agent shall notify the occupants of the regulated unit of the issuance of the Level 1 DCR and its contents, utilizing a form letter provided with such written notice, such form letter to be in such form as is approved in accordance with § 135-5 of this chapter. A copy of such form letter issued by the owner or agent to the occupants shall be delivered to the Code Enforcement Officer within such 10 business day period. Failure by the owner or agent to comply with the foregoing provisions of this § 135-6E(3) shall constitute sufficient grounds for the issuance to the owner or agent by the Code Enforcement Officer of a Level 2 DCR.
- (4) Remedial plan.
  - (a) Within 20 business days after the receipt of a written notice from the Code Enforcement Officer that a Level 2 DCR has been issued as a result of an occupant or owner or agent of a regulated unit having violated a provision of this chapter, the owner or agent shall file with the Code Enforcement Officer a remedial plan, on such form as is approved in accordance with § 135-5 of this chapter, which shall, at a minimum, state the following:
    - [1] Set forth what action the owner or agent has taken to remedy the violation;
    - [2] What steps the owner or agent has taken to prevent a reoccurrence of the violation; and
    - [3] Set forth specific steps the owner or agent will take in the future if the violation reoccurs.
  - (b) The Code Enforcement Officer shall review the report, and, if the Code Enforcement Officer determines that adequate steps have been taken or are proposed to be taken and the remedial plan is adequate to address future violations, the Code Enforcement Officer shall, within 10 business days after receipt of the remedial plan, approve the remedial plan or reject the remedial plan and issue written notice thereof to the owner or agent. The owner or agent shall, on his or her initiative, enforce the remedial plan. Failure to enforce the remedial plan diligently shall be a

violation of this chapter. If the Code Enforcement Officer determines that the remedial plan should not be approved and rejects the remedial plan, written notice thereof shall be issued to the owner or agent, and within 10 business days of receiving such notice the owner or agent shall refile a remedial plan which addresses the deficiencies found by the Code Enforcement Officer. The owner or agent may appeal the Code Enforcement Officer's rejection of the remedial plan to the Housing License Appeals Board.

- (5) This section shall not be construed as diminishing or relieving, in any way, the responsibility of the occupants, responsible parties and/or their guests for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner or agent of any responsibility of the occupants, any responsible parties or their guests for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner or agent of any responsibility or liability which occupants or their guests may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceeding or criminal law; nor shall this section be construed so as to require an owner or agent to indemnify or defend the occupants, any responsible party or their guests when any such action or proceeding is brought against the occupant based upon the occupant's conduct or activity, nor to, in and of itself, impose any liability for negligence based upon any act or omission of the owner or agent. Nothing herein is intended to impose any additional civil/criminal liability upon owner or agent other than that which is imposed by other laws or judicial decisions or that which is imposed by this chapter. This section is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the Borough of Kutztown against an owner or agent, occupant or guest thereof.

F. Agreements for regulated units. Regulated units shall only be let pursuant to an agreement or lease.

- (1) All rental agreements and/or leases for the Rental of regulated units shall be in writing and shall be supplemented with the addendum attached hereto as Appendix A. **Editor's Note: Appendix A is included at the end of this chapter.** No oral agreements or leases and no oral modifications of agreements or leases are permitted. All information required to be given to occupants and responsible parties by the owner or agent, pursuant to this chapter and/or the Pennsylvania Landlord and Tenant Act, **Editor's Note: See 68 P.S. § 250.101 et seq.** shall be furnished before the signing of the agreement or lease. The owner or agent shall provide the occupant and responsible party with copies of the rental agreement or lease and addendum upon execution. Appendix A shall not be submitted to the Borough of Kutztown unless requested pursuant to § 135-6(F)(4) hereinbelow.
- (2) The owner or agent and the occupant may include in a lease or rental agreement terms and conditions not prohibited by this chapter or other applicable ordinances, regulations and laws, including compensation, if applicable, term of the lease or rental agreement and other provisions governing the rights and obligations of the parties. Except as otherwise provided for in this chapter, no lease or rental agreement may provide that the occupant or owner agrees to waive or forego rights or remedies provided under this chapter. Any provision prohibited by this § 135-6F included in a lease or rental agreement shall be void and unenforceable.
- (3) Commencing with the effective date of this chapter, this chapter shall be available for purchase in the Borough Code Office and may be made available by other appropriate

means, such as electronically at the Borough's website. Where a rental agreement or lease has been entered into prior to the effective date of this chapter, the owner or agent shall make the occupant aware of this chapter within 60 days thereafter.

- (4) The owner or agent shall secure a written acknowledgement from the occupant at the time of signing the rental agreement or lease that the occupant has received the information required by this chapter on a form approved in accordance with § 135-5 of this chapter and which shall contain an acknowledgement of receipt of the information by the occupant and any responsible party. Upon request by the Code Enforcement Officer, the owner or agent, within 10 business days of the request, shall furnish to the Code Enforcement Officer copies of said acknowledgement and/or copies of the rental agreement(s) or lease(s) the owner or agent has entered into for regulated units.
- G. The owner or agent shall ensure that the regulated unit and the premises upon which the regulated unit is located comply at all times with the Performance Codes.
- H. The owner or agent shall reply promptly to reasonable complaints and inquiries from occupants.
- I. The owner or agent shall comply with all provisions of the Landlord and Tenant Act of the Commonwealth of Pennsylvania.
- J. All notices served upon the owner or agent by the Code Enforcement Officer or the Housing License Appeals Board shall be conspicuously posted by the owner or agent within the unit to which the notice applies.

#### **§ 135-7. Responsibilities of occupants; disruptive conduct.**

- A. Peaceful enjoyment. The occupants of a regulated unit shall each conduct themselves and require other persons, including, but not limited to, guests on the premises and within the regulated unit with the occupant's consent and consistent with agreements and leases in effect, to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others, and that will not disturb the peaceful enjoyment of adjacent or nearby premises by the persons occupying the same.
- B. Illegal activities. The occupant shall not engage in, nor tolerate nor permit others on the premises to engage in, any conduct declared illegal under the Pennsylvania Crimes Code (18 Pa. C.S.A. § 101 et seq.) or Liquor Code (47 P.S. § 1-101 et seq.) or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-101 et seq.).
- C. Disruptive conduct. It shall be a violation of this chapter for any occupant or any other person to engage in disruptive conduct, as defined in this chapter, on the premises of a regulated unit. When police or the Code Enforcement Officer investigate an alleged incident of disruptive conduct occurring in or about a regulated unit, the investigating officer shall complete a disruptive conduct report upon a finding that the reported incident did, in his or her judgment, constitute disruptive conduct as defined in this chapter. Each disruptive conduct report shall be conspicuously marked by the investigating officer to indicate whether it is a Level 1 DCR or a Level 2 DCR. The information filled in on said report shall include, to the extent possible, the identity or identities of the alleged perpetrator(s) of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct, as requested on the prescribed form. Where the police make such investigation, said police officer shall then submit the completed disruptive conduct report to the Code Enforcement



Officer. A Level 2 DCR may also be issued by the Code Enforcement Officer for the reasons set forth in § 135-6E(3) of this chapter. In all cases, the Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or agent of the regulated unit in question within five business days of the occurrence of the alleged disruptive conduct, notwithstanding whether the person making the investigation on behalf of the Borough of Kutztown is the Code Enforcement Officer or the police. The Code Enforcement Officer may also mail a copy of the disruptive conduct report to other appropriate parties.

- D. In addition to all obligations imposed upon occupants by this chapter, occupants of regulated units shall comply with all other applicable codes and ordinances of the Borough of Kutztown and all other applicable laws of the Commonwealth of Pennsylvania and the United States of America.
- E. The occupant of a regulated unit shall comply with all lawful provisions of the rental agreement and/or lease entered into between owner or agent and occupant.
- F. The occupant of a regulated unit shall not intentionally cause, nor permit nor tolerate others to cause, damage to the premises. Conduct which results in damages to a property may be considered a violation of this chapter and the Performance Codes and may be subject to a disruptive conduct report.
- G. The occupant of a regulated unit shall permit inspections of the premises by the Code Enforcement Officer at reasonable times and upon reasonable notice.
- H. It shall be a violation of this chapter for any person to remove or deface any notice, placard or document required to be posted within a regulated unit, and it shall be unlawful for any person to occupy the regulated unit unless all notices, placards and documents are posted as required by this chapter.

#### **§ 135-8. Inspections.**

- A. The Code Enforcement Officer is authorized and directed to make inspections to determine the occupancy, use and/or compliance with the Code of the Borough of Kutztown of any unit, and the premises thereof, located within the Borough of Kutztown in order to safeguard the health and safety of the occupants thereof and the general public. The Code Enforcement Officer is further authorized to enter for the purposes of examining and surveying all areas of any such unit with reasonable notice and at reasonable times, which shall be deemed to be between 8:00 a.m. and 10:00 p.m. prevailing time. Every owner or agent or occupant of any such unit shall extend the Code Enforcement Officer access to such unit for the purpose of making any inspection, examination or survey thereof.
- B. In the event that permission to enter any such unit for the purpose of inspection is denied, the Code Enforcement Officer, upon showing of probable cause that a violation of this chapter, any other provision of the Code of the Borough of Kutztown, or any other ordinance of the Borough of Kutztown has occurred, or that any order, notice, rule or regulation issued or made in connection therewith has been violated, may apply to the appropriate authority for a search warrant to enter and inspect the premises.
- C. A warrant shall not be required when entry is by permission or at the request of the occupant.

#### **§ 135-9. Enforcement; service of notices and orders; appeals.**

- A. Whenever the Code Enforcement Officer believes, or has cause to believe, that there is a violation of the provisions of this chapter or any rule or regulation adopted pursuant to it, including by virtue of the issuance of a DCR, the Code Enforcement Officer shall give notice of the violation. Such notice shall:
- (1) Be in writing and shall state the place and manner of the violation, including the address of the specific regulated unit in question.
  - (2) State the nature or condition of the violation.
  - (3) State the determination of the investigating officer with respect to the violation, including a conspicuous statement that a DCR is either a Level 1 DCR or a Level 2 DCR.
  - (4) State the name of the person who he deems responsible therefor, together with name of the owner of the premises involved and any agent for the owner.
  - (5) State the date of the notice and the number of days allowed for compliance with it.
  - (6) Be served upon the owner or agent of the premises involved, any relevant responsible party appearing in the records of the Code Enforcement Officer, and all other persons, if any, named in the notice pursuant to Subsection A(4) of this section, and any notice served upon the owner or agent and such other person or persons, if any, personally or by certified or registered mail, return receipt requested, sent to the last known address of such owner or agent and such other person or persons, if any, and by posting the same in a conspicuous place in or about the premises affected by the notice, shall be deemed to have been properly served.
  - (7) The notice may, in addition, contain any other pertinent data, information or statements which the Code Enforcement Officer deems appropriate.
- B. Any person affected by a notice of violation, determination or order issued by the Code Enforcement Officer or affected by any rule or regulation adopted pursuant to this chapter (except the establishment of fees pursuant to § 135-4 of this chapter) may appeal said notice, determination, order, rule or regulation to the Housing License Appeals Board. The timing, form and substance of such appeal shall be in compliance with the requirements of Article II of Chapter 12 of the Code of the Borough of Kutztown. The filing of such appeal shall not serve as a supersedeas, except in the case of appeals of enforcement or disciplinary action pursuant to § 135-10C(3) and (4) of this chapter.
- C. Whenever the Code Enforcement Officer determines that an emergency condition exists as a result of a violation of this chapter which requires immediate action to protect public health and/or safety, he may issue an order declaring the existence of such emergency and requiring action to be taken to remedy such emergency. Such emergency order shall be effective immediately upon issuance. Any person to whom such order is directed shall comply therewith immediately. However, such person may file an appeal to the Housing License Appeals Board as hereinabove provided for in § 135-9B of this chapter, but such appeal shall not serve as a supersedeas to the Code Enforcement Officer's emergency order.
- D. Notwithstanding the requirements of § 135-9A of this chapter, if the Code Enforcement Officer determines or has reason to believe that a violation of this chapter exists concerning the health, safety, welfare or occupancy of the premises, he may proceed, without giving the notice provided for in § 135-9A of this chapter, to cause a citation to be issued to the owner or agent and, in the case of violations involving occupancy as more particularly set forth in § 135-6E of this chapter, to the agent of the unit which the Code Enforcement Officer determines or has information to reasonably believe is in violation of the provisions of this chapter or any rule

or regulation adopted pursuant to it.

- E. The housing license required by this chapter, when issued to the owner or agent on behalf of the owner of a unit, shall constitute notice to such owner or agent of the maximum number of persons that may lawfully occupy the unit and the residential uses therefor.
- F. Any owner or agent who, upon receipt of a housing license, disputes the use and/or maximum occupancy listed thereon, may request in writing a meeting concerning such use and/or occupancy with the Code Enforcement Officer, such request to be filed within 10 business days after receipt of the housing license. If the dispute cannot be resolved in the aforesaid meeting with the Code Enforcement Officer, the owner or agent may appeal to the Housing License Appeals Board as provided for in Article II of Chapter 12 of the Code of the Borough of Kutztown, in which case such appeal period shall commence on the day of such meeting; provided, however, that any appeal of any aspect of a housing license which sets forth a determination pursuant to Chapter 225, entitled "Zoning," of the Code of the Borough of Kutztown, shall be appealed in the manner set forth in said Chapter 225.

#### **§ 135-10. Violations and penalties.**

- A. Any person who violates or fails to comply with any of the provisions of this chapter or any order, notice, rule or regulation issued or made in connection herewith shall, upon conviction thereof, pay a fine of not less than \$50 nor more than \$1,000 and, in default of the payment thereof, shall undergo imprisonment in the Berks County Prison for a period not exceeding 30 days.
- B. Every violation of this chapter shall constitute a separate offense, and each day such violation exists shall constitute a separate offense. In the event that any regulated unit is occupied by more than the maximum number of persons allowed by and listed on the housing license issued in accordance with § 135-3 of this chapter, then each day of occupancy by each such person in excess of such maximum number of occupants shall constitute a separate offense under this chapter. It shall be a violation of this chapter to let a unit subject to regulation under this chapter after nonrenewal, suspension and/or revocation of a housing license pursuant to § 135-10C through F of this chapter.
- C. Disciplinary actions. Subject to the procedure set forth in § 135-9A of this chapter, the Code Enforcement Officer may initiate the disciplinary actions set forth in this § 135-10C against an owner or agent with respect to a regulated unit for any of the reasons set forth in § 135-10D of this chapter:
  - (1) Formal warning: the formal written notification of at least one violation of this chapter. Upon satisfactory compliance with this chapter and any conditions imposed by the Code Enforcement Officer and/or the Housing License Appeals Board, formal warnings shall be removed when the owner applies for housing license renewal when required by this chapter.
  - (2) Nonrenewal: the denial of the privilege to apply for housing license renewal for a regulated unit after expiration of the license term. The owner shall be permitted to maintain occupants in the regulated unit in question until the end of the current license term but the Code Enforcement Officer shall not accept applications for renewal of the housing license until the expiration of the time set by the Housing License Appeals Board.
  - (3) Suspension: the immediate loss of the privilege to let the regulated unit for a period of

time set by the Code Enforcement Officer or the Housing License Appeals Board. The Code Enforcement Officer may suspend only until the matter can be scheduled for the next possible Housing License Appeals Board meeting, at which meeting the Housing License Appeals Board shall consider the propriety of the suspension and set the period of time for its duration, if it is to be continued. The owner or agent, after the expiration of the suspension period, may apply for housing license renewal for the regulated unit without the need to show cause why the owner or agent's privilege to apply for an housing license should be reinstated. Upon suspension, the owner or agent shall take immediate steps to evict the occupants of the regulated unit in question.

- (4) Revocation: The immediate loss of the privilege to let the regulated unit for a period of time set by the Code Enforcement Officer or the Housing License Appeals Board and the loss of the privilege to apply for renewal of the housing license at the expiration of said time period. The Code Enforcement Officer may revoke only until the matter can be scheduled for the next possible Housing License Appeals Board meeting, at which meeting the Housing License Appeals Board shall consider the propriety of the revocation and set the period of time for its duration, if it is to be continued. Upon the loss of the privilege to let, the owner or agent shall take immediate steps to evict the occupants of the regulated unit in question.

D. Grounds for imposing discipline.

(1) Actions subject to discipline.

- (a) Any of the following may subject an owner to discipline as provided for in § 135-10C:

- [1] Failure to abate a violation of the Performance Codes and/or this chapter applicable to the premises within the time directed by the Code Enforcement Officer.
- [2] Refusal to permit the inspection of the premises by the Code Enforcement Officer as required by this chapter.
- [3] Failure to take such actions as may be required or necessary to cause any open DCR to be deemed a closed DCR by the Code Enforcement Officer by the end of the license year in which the DCR was issued, including, but not limited to, failure to respond to notice of a DCR or failure to perform an approved remedial plan in any material respect. Such failure occurring with respect to one or more open DCRs in each of two license years, when at least two of such open DCRs were issued within a period of 60 months, shall without more, constitute sufficient grounds for nonrenewal as of the commencement of a license year and/or for suspension or revocation. If a DCR is received within the last 20 business days of the license year, the owner shall have 20 business days from the date of receipt of the notice of the issuance of DCR to cause the Open DCR to be deemed a closed DCR, regardless of the date of the end of the license year.
- [4] Failure to remedy and prevent further violations of this chapter, other than with respect to disruptive conduct.

- (b) For purposes of this subsection, there need be no criminal conviction before a violation can be found to exist.

- (2) No discipline involving nonrenewal, suspension and/or revocation shall be permitted unless the discipline has been preceded by the issuance of a formal warning involving the same grounds for discipline at least 10 days prior to the taking of the new disciplinary action. A formal warning shall be issued when there exists one or more open DCRs in each of two license years and at least two of such open DCRs were issued within a period of 60 months.

E. Criteria for application of discipline.

- (1) With respect to the issuance of a Level 2 DCR, the Code Enforcement Officer, when considering which of the discipline options to utilize as set forth in this section, and the Housing License Appeals Board, when deciding any discipline matter under this section, shall consider the following:
  - (a) The effect of the violation on the health, safety and welfare of the occupants of the regulated unit and other residents of the premises.
  - (b) The effect of the violation on the neighborhood.
  - (c) Whether the owner has a record of prior violations of this chapter and other ordinances of the Borough of Kutztown or has received notices of violations as provided for in this chapter, whether or not related to the regulated units in question. In this regard, no closed DCR (and any enforcement actions related thereto) shall be considered.
  - (d) Whether the owner has been subject to prior discipline under this chapter. In this regard, no closed DCR (and any enforcement actions related thereto) shall be considered. The prior issuance of a formal warning in connection with the open DCR shall be considered.
  - (e) The effect of disciplinary action on the occupants.
  - (f) The action taken by the owner or agent to remedy the violation and to prevent future violations, including any approved remedial plan submitted by the owner or agent in response to a Level 2 DCR with respect to any open DCR.
  - (g) The suitability of the policies and rental agreement or lease terms employed by the owner or agent to manage the regulated unit to enable the owner or agent to comply with the provisions of this chapter.
  - (h) When an open Level 2 DCR is under consideration, the nature of the associated criminal enforcement and/or other legal actions, the nature of the owner's violations of this chapter and the degree of the owner's unresponsiveness.
- (2) In addition to applying discipline as set forth in this section relating to a Level 2 DCR, the Code Enforcement Officer may recommend and the Housing License Appeals Board may impose upon the existing license [or subsequent license(s) with respect to the Performance Codes] reasonable conditions related to the regulated unit in question for the purpose of fulfilling the goals of this chapter.

F. Procedure for formal warning, Nonrenewal, suspension or revocation of license.

- (1) Following a determination that grounds exist for a formal warning or for nonrenewal, suspension or revocation of a housing license, the Code Enforcement Officer shall notify the owner or agent of the action to be taken and the reason therefor. Such notification shall be in writing, addressed to the owner or agent, and shall contain the following

information:

- (a) The address and identification of the particular regulated unit(s) affected.
- (b) A description of the violation which has been found to exist.
- (c) A statement that the owner or agent will receive a formal warning, or that the housing license for the affected regulated unit(s) will be subject to suspension or revocation or nonrenewal for the next license year beginning August 1. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence, and in the case of a suspension the notice shall also state the duration of the suspension.
- (d) A statement that, due to the nonrenewal, suspension or revocation (as the case may be) of the housing license, the owner or agent or any person acting on the owner's behalf is prohibited from letting or permitting occupancy of the affected regulated unit(s) from and during the period said disciplinary action is in effect.
- (e) A statement informing the owner or agent of the owner's right to appeal the decision to issue a formal warning or to subject the housing license in question to suspension, revocation or nonrenewal to the Housing License Appeals Board, as provided in this chapter.

(2) The procedures applicable to this § 135-10F shall be the same those of § 135-9A of this chapter, excepting § 135-9A(1) and (2).

G. In addition to any other remedy, discipline or enforcement action provided for in this chapter, the Borough of Kutztown may enforce this chapter by pursuing a civil action, including an action in equity or other equitable injunctive relief, including therewith:

- (1) The decision by the Borough of Kutztown to pursue any such action shall not be deemed an election of remedy so as to preclude other enforcement, disciplinary or other remedies available to the Borough of Kutztown for enforcement of this chapter; and
- (2) In the Borough of Kutztown's pursuit of any such action, a prima facie showing of a violation of any final, unappealable enforcement or disciplinary action or final, unappealable Housing License Appeals Board order shall be sufficient to satisfy any legal requirement that the Borough of Kutztown demonstrate irreparable harm as a prerequisite to obtaining injunctive relief.

H. Any discipline or enforcement action imposed under this chapter which is in any manner related to violations of the Performance Codes shall be applicable to the premises in question notwithstanding any change in the owner or its ownership of the premises. Any discipline or enforcement action imposed under this chapter with respect to any premises for reasons other than violation of any of the Performance Codes shall terminate, with respect to its applicability to such premises, upon any conveyance and/or change in owner or its ownership of the premises to a new owner, provided that:

- (1) The new owner, if an individual, shall not be related to the existing owner by blood, marriage, adoption or other decree of legal custody; and
- (2) The new owner, if a legal entity (other than an individual), shall not be owned, wholly or partially, by the existing owner.

#### **§ 135-11. Severability.**

It is the intention of Borough Council that each separate provision of this chapter shall be independent of all other provisions herein, and it is further the intention of Borough Council that if any of the provisions of this chapter be declared to be invalid, all of the other provisions hereof shall remain valid and in force.

**§ 135-12. Repealer.**

All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent with this chapter, including but not limited to any portions of Chapter 135 of the Code of the Borough of Kutztown in effect on the date of enactment of this chapter, are hereby repealed.

DRAFT

BILL NO. \_\_\_\_\_-2008

AN ORDINANCE

AMENDING CHAPTER 11 HOUSING - RENTAL OF  
THE CITY OF READING CODIFIED ORDINANCES

THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

**SECTION 1:** Chapter 11 entitled Housing - Rental is amended as follows:

Section 104 Application for Permit Subsection 14 (§11-104(14)) of the Codified Ordinances is hereby deleted. The remaining subsections of Section 104 are renumbered accordingly, 11-104(15) is now 11-104(14), 11-104(16) is now 11-104(15) and 11-104(17) is now 11-104(16).

**Comment [m1]:** Section required payment of all municipal fees to obtain permit. In light of recent caselaw which prohibits such requirement, recommended it be removed.

Section 124 Disruptive Conduct Subsection C Eviction (§11-124(C)) is amended to read in its entirety as follows:

After three (3) disruptive conduct incidents in any 12-month period by an the occupant documented by disruptive conduct reports, the owner or local responsible agent shall have ten (10) working days from the date of his/her receiving the notice to begin eviction proceedings against the occupants. *The owner or local responsible agent shall diligently pursue the eviction of the occupants as required herein. Diligent pursuit of the eviction of said occupants shall include but not be limited to prosecution of the eviction proceedings and participation with follow through of any appeal.* This paragraph is not intended to limit or inhibit the owner or local responsible agent's right to initiate eviction actions prior to the third disruptive conduct incident.

Section 124 Disruptive Conduct Subsection G Report Against All Occupants (§11-124(G)) shall be amended to read in its entirety as follows:

The content of the disruptive conduct report shall count against all occupants of the rental unit. The content of the disruptive conduct report shall not count against all occupants of the rental unit if the complaint is initiated by one of the rental unit occupants. *More than one disruptive conduct report filed against the occupants of a rental unit in a 24-hour period shall count as a single disruptive conduct report for the purpose of the preceding paragraph.*



Section 124 Disruptive Conduct Subsection H Maintenance of List of Evicted Occupants (§11-124(H)) shall be renamed and amended to read in its entirety as follows:

**H. MAINTENANCE OF LIST OF DISRUPTIVE CONDUCT  
REPORT TENANTS AND OCCUPANTS AND EVICTED  
OCCUPANTS**

*The Codes Enforcement Office shall maintain a list of the names of all occupants and tenants against whom a Disruptive Conduct Report is issued as a result of this Ordinance. The Codes Enforcement Division shall also maintain a list of all occupants and tenants evicted as a result of this Ordinance. The names shall remain on the list for a period of five (5) years.*

Section 125 Housing Board of Appeals Subsection (A) Appeals (§11-125(A)) shall be amended to read in its entirety as follows:

Any person aggrieved by any decision of a police officer or public officer in regard to a disruptive conduct report or the suspension, nonrenewal, denial or revocation of a Rental Permit, may appeal to the Housing Board of Appeals. Such appeal must be filed, in writing *with the Manager of the Codes Enforcement Division*, with the appropriate filing fee within ten (10) working days from the date of receipt of the disruptive conduct report or notice of revocation.

Section 125 Housing Board of Appeals Subsection (C) Powers (§11-125(C)) is hereby amended to add a new paragraph 6 to read as follows and renumber the existing paragraph 6 to paragraph 7:

**6. OATHS AND SUBPOENAS.**

The Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

Section 125 Housing Board of Appeals Subsection (G) Fee (§11-125(G)) shall be renamed and amended to read in its entirety as follows:

**G. FEE AND COSTS**

The fee for filing of an Appeal to the Housing Board of Appeals shall be \$75. Failure to submit the appropriate fee with the request for an appeal shall result in automatic denial of the appeal. *In addition to said fee, the Appellant shall be responsible for all costs incurred to conduct a hearing beyond that covered by the fee.*

Comment [m2]: Was \$50.

**SECTION 2:** All relevant ordinances, regulations, remaining sections of Chapter 11 Housing – Rental Ordinance and policies of the City of Reading, Pennsylvania not amended hereby shall remain in full force and effect.

**SECTION 3:** If any section, subsection, sentence or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

**SECTION 4:** This Ordinance shall become effective in ten (10) days, in accordance with Charter Section 219.

Enacted \_\_\_\_\_, 2008

\_\_\_\_\_  
Council President

Attest:

\_\_\_\_\_  
City Clerk

(LAW)

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

BILL NO. \_\_\_\_\_-2008  
AN ORDINANCE

**AMENDING THE CITY OF READING CODIFIED ORDINANCES SECTION 10-1705  
CHANGING THE LOCATION AND NUMBER OF MOBILE FOOD VENDORS**

**SECTION 1.** Amending the City of Reading Codified Ordinances Section 10-1705 1 as follows:

**§10-1705. License Required**

1. It shall be unlawful for any person to engage in the business of a sidewalk vendor within the City of Reading without first obtaining a license pursuant to this Section. Such sidewalk vending activities are only permitted within the Commercial Code Zoning District and between the southern border of Franklin Street, the northern border of Washington Street, the western border of 8th Street (**possible change to Front St.**) and the eastern border of 11th Street.

**SECTION 2.** Amending the City of Reading Codified Ordinances Section 10-1705 2 (A) as follows:

2. The restrictions of this Section shall not apply to itinerant food operations associated with the organized festival, carnival, fair, parade, picnic or other affair that may be approved or sponsored by the City or its associated bureaus or agencies, in such areas which may be designated and approved for itinerant food operations on a temporary basis.

**A. Location, Type and Number.** A sidewalk vendor license shall only be issued for and restricted to vendor sales from an approved stand at specific and fixed locations within the Commercial Core Zoning District. All sidewalk vending shall be conducted within the public right-of-way, as defined herein. Vending on private property shall follow provisions set forth in the City of Reading Zoning Ordinance [Chapter 27] for the zoning district in which the vendor is located. Ten (**possible change to twenty**) sidewalk vending licenses shall be issued for food-related sales annually per District as determined by the Vending License Board. Ten sidewalk vending licenses for self-serve vending machines **will be issued annually**. The Vending License Board shall determine the exact location of each vendor or vending machine in each district. The City may increase or decrease the number and locations of the sidewalk vendors at any time with proper notification to the vendors. The City may, if necessary, temporarily relocate any or all vendor(s) by giving the vendor(s) 48- hour notice.

**SECTION 3.** All other parts of the Ordinance remain unchanged.

**SECTION 4.** This Ordinance shall be effective ten (10) days after passage.

Enacted \_\_\_\_\_, 2008

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
City Clerk

*(Council Office)*

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

## **PART 17 SIDEWALK VENDORS**

### **§10-1701. Purpose**

The purpose of this Part is to provide for the regulation of sidewalk vendors in the City of Reading to promote an active and attractive pedestrian environment. The City of Reading has the responsibility to provide public safety for pedestrians and to protect public facilities. Whereby, reasonable regulation of sidewalk vendors is necessary to protect the public health, safety, and welfare in the public right of way. It is the finding of City Council that the regulation of sidewalk vendors is necessary to promote the orderly and efficient use of sidewalks, to prevent undue interference with established businesses and to assure the performance of essential utility, traffic control and emergency services.  
(Ord. 63-2007, 8/13/2007, §1)

### **§10-1702. Title**

This Part shall be known as the "Sidewalk Vendor Ordinance."  
(Ord. 63-2007, 8/13/2007, §1)

### **§10-1703. Interpretation**

The provisions of this Part shall be construed to be the minimum requirements necessary to serve the general welfare and safety of the residents of the City of Reading. Where the provisions of any statute, other ordinance or regulation impose greater restrictions or higher standards than those enumerated in this Part, the provisions of such statute, ordinance or regulation shall govern.  
(Ord. 63-2007, 8/13/2007, §1)

### **§10-1704. Definitions**

For the purpose of this Part, certain terms shall be defined as follows:

**COMMERCIAL CORE ZONING DISTRICT** - the downtown center for government services, offices, shopping, hotels, entertainment and cultural activity. Please see the City of Reading Zoning Map.

**KIOSK** - a freestanding structure upon which temporary information and/or posters, notices and announcements are posted; an open gazebo, pavilion or similar structure used as a newsstand, refreshment booth or the like.

**OFFICIAL MAP** - the topographical survey of the City of Reading, Pennsylvania on file in the Engineering Office.

**PASSABLE** - free of any impediment or obstruction, whatsoever, that would hinder the travel of the public.

**PUBLIC RIGHT-OF-WAY** - any place of any nature which is legally open to public use and used and/or intended for vehicular or pedestrian traffic, including public streets, alleys, sidewalks, and roadways, but excluding any public property of the City of Reading. The official topographic survey map of Reading, Pennsylvania, on file in the Engineering Office shall be the final authoritative document should the existence of any street, dedicated or not be disputed.

**PUBLIC OUTDOOR PAY TELEPHONE** - any outdoor publicly accessible pay telephone any portion of which, or its enclosure, it situated on, projects over, or hangs over a portion of the public right-of way; or is situated such that it can be used by a person standing on the public right-of way.

**PUBLIC PROPERTY** - all real and personal property, whether within or outside the corporate City limits, belonging to the City of Reading, excluding that which is used and/or intends for use by vehicular or pedestrian traffic and defined herein as a public right-of-way.

**SANDWICH BOARD** - any portable sign which is intended, by design, use or construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse.

**SIDEWALK** - that portion of a public right-of-way for which paving is required under this Part of the Codified Ordinances of the City of Reading and which is used primarily for pedestrian travel.

**SIDEWALK AREA** - that portion of the public right-of-way occurring between the curbline and the topographical building line.

**SIDEWALK VENDOR** - person or persons who exhibits, displays, or sells any food, beverage, goods, printed materials or merchandise from and stand, cart vending machine or trailer while on or about the sidewalk area.

**SIDEWALK VENDOR LICENSE** - the written authorization, issued by the City of Reading, to construct, install, erect, or place any obstruction within the public right-of-way. The license must be displayed prominently on each stand, cart, trailer and/or obstruction.

**STAND** - any structure, device or object erected, installed, or placed within any portion of the public right-of-way or chained, bolted or otherwise attached to a building or structure in such a manner that any portion of said structure, device or object projects over or into the public right-of-way used to exhibit, display or sell food or goods. Stands shall include, but are not limited to, kiosks, newsracks, newsstands, outdoor pay telephones, sandwich boards, stands, street furniture and vending machines. The terms "tables," "carts," "stands" and "trailers" shall be used interchangeably throughout this Part and should be construed to the same meaning.

**TRAILER** - vehicle designed to be towed by a motor vehicle.

**VENDING CART** - small, light vehicle moved by hand for the purpose of conducting food sales.

**VENDING LICENSE BOARD** - Board authorized to approve permits and the location of sidewalk vendors, pursuant to §10-1710.

**VENDING MACHINE** - any self-service device that provides for the sale or distribution of food, beverage or goods, newspapers, other printed materials either in bulk or in package, without the necessity of replenishing the device between each vending operation.  
(Ord. 63-2007, 8/13/2007, §1)

#### **§10-1705. License Required**

1. It shall be unlawful for any person to engage in the business of a sidewalk vendor within the City of Reading without first obtaining a license pursuant to this Section. Such sidewalk vending activities are only permitted within the Commercial Code Zoning

District and between the southern border of Franklin Street, the northern border of Washington Street, the western border of 8<sup>th</sup> Street (*possible change to Front St.*) and the eastern border of 11<sup>th</sup> Street.

2. The restrictions of this Section shall not apply to itinerant food operations associated with the organized festival, carnival, fair, parade, picnic or other affair that may be approved or sponsored by the City or its associated bureaus or agencies, in such areas which may be designated and approved for itinerant food operations on a temporary basis.

A. **Location, Type and Number.** A sidewalk vendor license shall only be issued for and restricted to vendor sales from an approved stand at specific and fixed locations within the Commercial Core Zoning District. All sidewalk vending shall be conducted within the public right-of-way, as defined herein. Vending on private property shall follow provisions set forth in the City of Reading Zoning Ordinance [Chapter 27] for the zoning district in which the vendor is located. Ten (*possible*

**change to twenty)** sidewalk vending licenses shall be issued for food-related sales annually per District as determined by the Vending License Board. Ten sidewalk vending licenses for self-serve vending machines **will be issued annually**. The Vending License Board shall determine the exact location of each vendor or vending machine in each district. The City may increase or decrease the number and locations of the sidewalk vendors at any time with proper notification to the vendors. The City may, if necessary, temporarily relocate any or all vendor(s) by giving the vendor(s) 48-hour notice.

**B. More than Two Licenses Prohibited.** A person who holds or has an interest in two sidewalk vendor licenses as an owner, partner or shareholder shall not have any additional interest, either directly or indirectly, as an owner, partner or shareholder in any other sidewalk vendor license.

**C. License Nontransferable.** A sidewalk vendor license shall not be transferable to another holder except upon the permanent disability of the holder, and any prohibited transfer of the license shall work an automatic forfeiture thereof. If the license holder is not a natural person, the transfer of any ownership interest in the holder of the license shall be deemed a prohibited transfer.

(Ord. 63-2007, 8/13/2007, §1)

#### **§10-1706. Permitting for Sidewalk Vendors Outside the Permitted Area**

Applications for sidewalk cafes outside the Commercial Core Zoning District shall be submitted to the Codes Enforcement Office in accordance with the regulations contained herein. Such applications shall be forwarded to City Council for approval.

(Ord. 63-2007, 8/13/2007, §1)

#### **§10-1707. License Application**

**1. Notice of License Availability.** Applications for sidewalk vending licenses will be available between November 1 and November 15 in the City of Reading Codes Office.

Notice of such availability will be made through a newspaper of general circulation not more than 30 days nor less than 14 days prior to November 1.

**2. Application.** Any person interested in applying for a sidewalk vendor's license may, after public notice listed above, make application by filing such forms containing the required information with the City of Reading Codes Office with a nonrefundable application fee of \$50 no later than 4 p.m. on November 15.

The application shall at a minimum set forth:

- A. True name and address of the applicant. P.O. boxes will not be permitted.
- B. Names and addresses of any employees, other than the owner, who operate the stand.
- C. Photographs and specifications of the proposed sidewalk vendor cart(s), stand(s) or trailer(s) to be used in sufficient detail showing compliance with the design criteria, standards, and specifications in §10-1708 herein.
- D. Sufficient detail about the proposed sidewalk vendor and the products proposed for sale must be submitted with the application for evaluation and compliance with applicable City and State Health Codes, along with copies of the required City and State health permits.
- E. A copy of the applicant's business privilege license.
- F. A copy of the permit allowing for the use of on-unit heating, cooking, water, electrical or cooling devices. Utility connections to neighboring properties shall be prohibited.
- G. A complete listing of the items to be offered for sale or distribution. Applications will be initially reviewed by the Codes Office for completeness. Incomplete applications may be amended one time and resubmitted on or before November 15 as stated above.

**3. Review of Applications.** Not more than 45 days following application deadline, the Vending License Board shall complete the review of all applications filed and notify the applicants of the results thereof in writing. An application shall be denied and the applicant shall be ineligible for a sidewalk vendor license if:

- A. The application is incomplete in any material respect.

- B. The proposed vending cart does not comply with the cart design criteria, standards or specifications and/or applicable health requirements.
- C. The applicant does not have a business privilege license.
- D. The applicant, or any natural person having an interest in the entity making the application, has:
  - (1) An interest in more than two sidewalk vendor licenses.
  - (2) Within the past 5 years held or had an interest in a sidewalk vendor license that has been revoked.
  - (3) Within the past 10 years been convicted of selling, offering to sell or possession with intent to sell a controlled substance or convicted of a felony.
- E. If an application is denied, the applicant shall be notified in writing of the reason(s) therefore.

4. Each license shall be issued for one calendar year, February 1 to January 31, and shall be subject to review during the calendar year for adherence to the requirements of this Part.  
(Ord. 63-2007, 8/13/2007, §1)

#### **§10-1708. Design Standards.**

##### **1. Design and Appearance.**

A. **General Requirements.** All sidewalk vendor carts, trailers or stands shall be designed to be attractive, easily maintained in a sanitary condition, and mobile. There will be no fixed design as such; however, literature on designs, manufacturers, costs and similar details will be available in the City Codes Office. In addition, vending must comply with State and local health and sanitation requirements on such matters as refrigeration, cooking, utensils and appliances, materials and food storage. A health permit must be obtained by all vendors selling food before operation of sales begins.

##### **B. Required Physical Features.**

- (1) The dimensions of the vending shall not exceed 4 feet x 8 feet. This is the largest in operation size and states the largest exterior dimensions permitted (including wheels, handles and similar parts). Fold-out shelves for larger merchandise are permitted, provided there will be no interference with pedestrian movement.
- (2) **Mobility.** Vending carts must have at least two wheels. They must permit easy movement and maneuverability in the event of emergency and required relocation.
- (3) **License Display.** The vending license must be clearly displayed on the cart in such a manner and location as to be clearly visible to customers.
- (4) **Trash Receptacles.** Each vending cart will have provisions for vendor and customer trash disposal. Vendors are responsible for proper disposal of this trash whenever the container becomes full or, at a minimum, at the conclusion of the day's operation.
- (5) **Covers.** Umbrellas or canopies are desirable. The umbrella must not conflict with public passage on the right of way, nor be obtrusive to vendors' signs or neighboring business. The cover must be well maintained.
- (6) **Utility Connections.** Utility connections for water, cooking, cooling, electric, heating, etc., must be contained in the unit. Utility connections to neighboring properties shall be prohibited.
- (7) **Fire.** A 5 pound ABC type dry chemical fire extinguisher is required for all vending carts utilizing a flame for any purpose.

##### **C. Prohibited Features.**

- (1) Advertising other than the name of the vendor's business or suppliers.  
(Advertising must appeal to the sensibilities of the general public.)
- (2) Propulsion systems other than manual.
- (3) Gas cylinders larger than 20 pounds.
- (4) Vending directly from a motor vehicle is prohibited except for those provisions under .05(a).

D. Waivers will not be permitted for any requirement based on health, safety or sanitation considerations.



E. All carts shall comply with standards and specifications described herein and adopted by the City. Failure to comply shall be sufficient grounds for rejection of a vending license application or suspension or revocation of any license issued.

2. **Maintenance.** All sidewalk vendor carts shall at all times be maintained in good condition and repair. Any repairs to or replacements of sidewalk vendor carts shall comply fully with the existing design criteria, standards and specification. No replacement cart may be placed into operation until approved.

3. **Carts Self-Contained.** All sidewalk vendor carts shall be so designed that all sale activities, including trash disposal facilities, can be conducted totally from the vending cart. Use of the sidewalk by a vendor for product display, storage, or disposal of trash shall be prohibited.

4. **Sign.** No sign shall be permitted except an identification of the vendor's business name and the listing of items available to sale and the price thereof. The sign must not be obtrusive to the public way or conflict with neighboring businesses.  
(Ord. 63-2007, 8/13/2007, §1)

#### **§10-1709. Sidewalk Vendor Operation Standards**

1. **Days and Hours of Operation.** Sidewalk vendor sales may be conducted daily between the hours of 9:00 a.m. and 5:00 p.m. from October 1 through March 31 of each year and between the hours of 9:00 a.m. and 7:30 p.m. from April 1 through September 30 of each year, unless otherwise permitted or restricted by regulations adopted by the City.

2. **Daily Removal.** Sidewalk stands and accouterments shall be removed from the sidewalk daily, not later than ½ hour after the close of business or and not returned thereto earlier than ½ hour before the time permitted for opening, unless otherwise provided by the regulations adopted by the City. Any item not removed from the sidewalk at the close of business may be removed and stored by the City of Reading. The vendor will be charged for costs, storage and the penalty prescribed under §10-1714 herein.

3. **Safe and Sanitary Condition.** Sidewalk vendor carts and vending areas shall be maintained in a safe, broom-clean and sanitary condition at all times. Sidewalk vendor carts licensed hereunder to sell food products shall:

A. Be subject to inspection at any time by a City of Reading Codes Inspector and shall at all times be licensed under and be in compliance with all applicable State and local codes.

B. If using portable heating or cooking facilities, subject to inspection at all times by the City of Reading Fire Marshal and Codes Office and shall comply with all applicable codes of the City of Reading. A permit must be obtained from the Fire Marshal before operation of sales begins.

4. **Quiet Operations.** Sidewalk vendors shall conduct business in an orderly fashion and shall not make loud or raucous noises or use sound amplifying devices to attract attention, nor verbally hawk or solicit product sales to pedestrians or motorists.

5. **Use and Maintenance of Sidewalk.** All sales and related activity shall be conducted from the vending area during which times the vending cart shall not be moved from the assigned vending location. No products shall be stored or displayed, on the sidewalk or any adjacent outside area. The sidewalk vendor shall be solely responsible to keep the sidewalk area free of trash, litter, debris or spillage generated by the vendor's business.

The vending cart shall be placed so as not to impede the free movement of pedestrian traffic. The use of tables, chairs, benches, etc., around the vending cart is strictly prohibited.

6. **Public Liability Insurance.** Each license holder shall maintain and provide the City of Reading with proof thereof, insurance for public liability, with minimum coverage of \$100,000 per individual and \$500,000 per incident.

**7. Prohibitions.** An object, device or structure as regulated under the terms of this Part shall be expressly prohibited when its construction, erection, installation or placement would result in any of the following conditions:

- A. A passable sidewalk width less than 5 horizontal feet.
- B. A horizontal projection from the building line in excess of 5 feet.
- C. A reduction in sight triangle.

(Ord. 63-2007, 8/13/2007, §1)

**§10-1710. Suspension or Revocation of License**

A sidewalk vendor license shall be subject to suspension or revocation by the City for violation of any provision of this Part or any regulations promulgated or enacted hereunder, or violation of applicable State or local, including but limited to all health or safety regulations, zoning and taxation.

(Ord. 63-2007, 8/13/2007, §1)

**§10-1711. Vending License Board**

The Vending License Board shall consist of the one member of the Board of Directors of the Reading Downtown Improvement District Authority (DID) or their designee, one member of the City of Reading Planning Commission or their designee, one employee from the Codes Office, Reading Police Traffic Enforcement and Public Works.

A. **Responsibilities.** The Vending License Board shall have the following responsibilities and duties:

- (1) Meet no later than December 30 annually to review and approve vendor license applications.
- (2) Determine vendor locations for each approved applicant within the Commercial Core Zoning District.
- (3) Recommend amendments to this Part to the Council of the City of Reading.

(Ord. 63-2007, 8/13/2007, §1)

**§10-1712. Enforcement**

This Part will be enforced under the jurisdiction of the City Codes Office and the Reading Police Department.

(Ord. 63-2007, 8/13/2007, §1)

**§10-1713. Construction and Severability**

In the event any provision, Section, sentence, clause or part of this Part shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect or impair any remaining provision, Section, sentence, clause or part of this Part, it being the intent of the Council of the City of Reading that such remainder shall remain in full force.

(Ord. 63-2007, 8/13/2007, §1)

**§10-1714. Penalty**

Any person violating any provision of this Part or of the regulations promulgated hereunder, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$500 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than 90 days or both. Each day during which the person violated any provision of this Part shall constitute a separate offense. Institution of a prosecution for the imposition of the foregoing penalty shall not be construed to limit or deny the right of the City to such equitable or other remedies as may be allowed by law.

(Ord. 63-2007, 8/13/2007, §1)